

191—100.34 (523A) Changes in funding methods for or terms of purchase agreements. When a preneed seller or sales agent changes the funding method for a prepaid purchase agreement, this rule applies.

100.34(1) *Change in funding of a purchase agreement.* When a purchaser changes the funding source for a purchase agreement from a bank account or trust account to funding through insurance, or from insurance funding from one insurance company to another:

a. This type of change is deemed to be an amendment to the purchase agreement, not a cancellation of the original purchase agreement.

b. The amendment to the purchase agreement may include other minor updates to the statement of goods and services.

c. The preneed seller shall do all of the following:

(1) Obtain a written, signed and dated statement from the purchaser requesting the change in funding and acknowledging the transaction in a way that demonstrates the purchaser understood the change in funding transaction. A copy of the signed statement shall be provided to the purchaser, and a copy shall be retained by the preneed seller.

(2) Describe the change in funding in a written amendment to the purchase agreement. The amendment shall be signed and dated by the purchaser and the preneed seller. A copy of the signed amendment shall be provided to the purchaser, and a copy shall be retained by the preneed seller.

(3) If the funding change is from a bank account to an insurance account, record the amendment on the preneed seller's annual report as a reduction in cash accounts and an increase in insurance accounts.

(4) If the funding change is from a trust account to an insurance account:

1. Confirm that the policy shall have an increasing benefit, as specified in Iowa Code section 523A.401(6).

2. Record the amendment on the preneed seller's annual report as both a withdrawal from trust and an addition of insurance. Instructions are available on the commissioner's Web site.

3. Comply with record-keeping and reporting requirements for the sale of new insurance in Iowa Code sections 523A.401 and 523A.402.

(5) If the change in funding is from one insurance company to another:

1. Document compliance with the disclosure requirements of rule 191—15.8(523A).

2. Comply with the replacement requirements of rule 191—16.24(507B).

3. Record the amendment on the preneed seller's annual report as a change in funding from one insurance company to another. Instructions are available on the commissioner's Web site.

(6) For record maintenance purposes, use the number for the original purchase agreement, not a new assigned number.

100.34(2) *Cancellation of a purchase agreement.* When a purchaser makes substantive changes to a purchase agreement:

a. This type of change is deemed to be a cancellation of the existing purchase agreement and requires the preneed seller to execute a new purchase agreement.

b. The preneed seller shall do all of the following:

(1) Obtain a written signed and dated statement from the purchaser which cancels the existing purchase agreement. A copy of the signed statement shall be provided to the purchaser, and a copy shall be retained by the preneed seller.

(2) Obtain a written signed and dated statement from the purchaser which demonstrates that the purchaser understood the change from one purchase agreement to the other. A copy of the signed statement shall be provided to the purchaser, and a copy shall be retained by the preneed seller.

(3) Comply with the rescission requirements of Iowa Code section 523A.602.

(4) For record maintenance purposes, assign a new number for the new purchase agreement.

(5) Record the cancellation of the initial purchase agreement on its annual report.

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